MONTANA LEGISLATIVE HISTORY

Chapter 222 19 79

Bill H 327 S _____ Original bill & history X C

H. Committee on LOCAL GOV'T			S. Committee on LOCAL GOV'T		
Hearing Date(s)	1/31	X C	Hearing Date(s)	3/6	X C
EXEC. ACTION	2/2	X C	& EXEC ACTION	_____	___ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	_____	___ C			

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LOCAL GOVERNMENT COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 305	"Permit residential zoning for community facilities for the mentally ill, amend. § 76-2-313.	1/23/79	GESEK, FRATES	Wed. Jan. 31 5:30 pm	DO NOT PASS	2/12/79
HB 307	"Grant additional flexibility to local gov. bodies in exempting certain subdivisions from public interest & environ. assessment requirements, amend §76-3-210	1/23/79	AZZARA BARDANOUVE WALDRON JOHNSTON et al	Thurs, Feb. 15 12:30 pm	AND AS AMENDED DO PASS	2/19/79
~~HB 298~~	~~"Authorize special education~~ cooperative contracts, detailing contents, authorize school dist. to approp. funds to coop. prov. teacher tenure, Spec. Ed. Coop.	1/23/79	DUSSAULT FASBENDER	Wed. Jan. 31 5:30 pm	Cancel, to another committee.	
HB 320	"Require apportionment of delinquent prop. tax when subdivided, new owner to pay proportionate share before title transferred...	1/24/79	RAMIREZ	Wed. Jan. 31 5:30 pm	NO RECOMMENDATION	2/19/79
HB 327	"Amend §15-8-104, eliminate require. county pay for audits conducted by Dept. of Revenue, providing costs be paid by dept...	1/24/79	FABREGA	Wed. Jan. 31 5:30 pm	DO PASS	2/2/79
HB 330	To increase the permissive county bridge levy, amend § 7-14-2502..	1/24/79	MANUEL by request	Tues. Feb. 6 12:30	DO PASS	2/6/79

CHAPTER NO. 222

HOUSE BILL NO. 327

INTRODUCED BY FABREGA, MOORE

IN THE HOUSE

January 23, 1979	Introduced and referred to Committee on Local Government.
February 5, 1979	Committee recommend bill do pass. Report adopted.
February 6, 1979	Printed and placed on members' desks.
February 7, 1979	Second reading, do pass.
February 8, 1979	Considered correctly engrossed.
February 9, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 10, 1979	Introduced and referred to Committee on Local Government.
March 6, 1979	Committee recommend bill be concurred in. Report adopted.
March 8, 1979	Second reading, concurred in.
March 10, 1979	Third reading, concurred in.

IN THE HOUSE

March 12, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 327

INTRODUCED BY [signature]

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-8-104, MCA; ELIMINATING THE REQUIREMENT THAT A COUNTY PAY FOR AUDITS CONDUCTED BY THE DEPARTMENT OF REVENUE, AND PROVIDING THAT THE COSTS OF AN AUDIT BE PAID BY THE DEPARTMENT; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- ~~costs of audit paid by county~~ -- penalty for underreporting -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells, bank shares, business inventories, and all other types of property subject to ad valorem taxation. ~~The costs incurred by the department, including per diem and mileage expense as well as salaries and benefits, shall be reimbursed from the amount collected as a result of the audit. In the event the property subject to audit is assessed within two or more counties, the department shall allocate the cost among the collections due each of the counties. Reimbursement shall be made solely for audit expense and not for other services provided to the counties by the department and may not exceed the amounts collected.~~

(2) The taxable value of any underreported portion of any business inventory found as a result of an audit to have been underreported by the owner shall be increased by 25% as a penalty for underreporting.

(3) The 25% penalty may be waived by the department if reasonable cause for failure to report the total value of a business inventory is provided to the department.

(4) The cost of the audit shall be paid ~~to the state treasurer for credit to the general fund~~ by the department."

Section 2. Effective date. This act is effective on passage and approval.

-End-

HB 327

INTRODUCED BILL

PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES
Wednesday, January 31, 1979

The meeting was set for 5:30 or on adjournment and was called to order at 4:45 by Chairman Robbins. The secretary called the roll and found a quorum present, absent were Rep. Gould and Waldron.

HOUSE BILL 268: Representative Oberg stated that the bill is designed to keep cities from discriminating against local stores that sell alcoholic beverages as they are losing business on Sundays when people are going out of town and can stop at a store on Sunday to buy beer for a picnic.

Chairman Robbins called for proponents. Bob Durkee of the Montana Taxpayers Association was present and stated they do support this, and that county and city laws vary. He stated this was the same as when some counties did not allow selling alcohol and people just went across the line to buy. He stated the laws of closing during elections were repealed because people felt this was no longer a problem and it should be the same for Sunday. There were no further proponents and no opponents.

Rep. Oberg then closed, stating he felt there were some groups that would submit written testimony. Committee members inquired as to present law, and also as to what stores that stay open all night do in this case. Hearing was then closed on HB 268.

HOUSE BILL 320: Rep. Ramirez, sponsor, introduced the bill and presented amendments which are attached, and would amend the word delinquent to "due", and repeal the remainder of the bill after line 15. Other wording would then be added.

Dennis Rehberg of the Montana Association of Realtors stated they were in support and that the buyer would be able to pay the whole tax or to have it apportioned. This would provide some relief on the tax burdens when there is a large amount owed.

Rep. Ramirez then gave closing statements after it was determined there were no further opponents or proponents. He said the bill had been requested by the County Treasurers, and he would now temporarily close. Hearing then closed on HB 320.

HOUSE BILL 327: The sponsor was unable to be present and the bill was presented by Dean Zennicker of the Montana Association of Counties

HB 327 (cont.)
Mr. Zinnecker stated this bill would take the costs of the audits out of the local budgets as they don't know when an audit will be conducted or how extensive and they are then unable to budget for these costs. The entire process is out of the hands of the local governments. There were no costs previously paid by the state. There were no opponents and hearing was closed on HB 327.

HOUSE BILL 305: Representative Gesek, sponsor of the bill gave introduction, stating the bill is to provide the same zoning for community facilities for the mentally is as are currently in effect to facilities for youth, developmentally disabled and alcoholic and drug dependent persons. Her complete statement is attached, Exhibit "A". Chairman Robbins then called for proponents.

James Johnson, a member of the Governor's mental health advisory council stated this was being done in Missoula and it would work similary to the disabled homes, and the idea is now to go toward home situations.

There were no opponents present and Rep. Gesek stated she felt this area was overlooked at the time the law was drafted. Many of the mentally ill are ready to go into a home situation and this allows them to be in communities.

There were then questions from committee members, with Rep. Azzara inquiring as to why this couldn't be handled with local zoning and this would give communities the option to make a decision. Rep. Kessler stated this had created a problem in Missoula and neighbors had objected. Augie Hansen then stated that the developmentally disabled people are in this category as far as state law is concerned and that the Supreme Court had upheld the allowance of group homes. Rep. Kemmis stated the Supreme Court had defined the group homes area, stating no community could zone against these. After further discussion it was moved by Rep. Oberg to ask a delegate from the Dept. of Health and Environmental Services to further explain the regulations, vote was called and all voted "aye". The hearing was then left open.

There being no further business, the meeting was then duly adjourned at 5:45 pm.

Hershel M. Robbins

Hershel M. Robbins, Chairman
LOCAL GOVERNMENT COMMITTEE

Patricia A. Hatfield

Patricia A. Hatfield
Committee Secretary

HOUSE BILL 288: Representative Donaldson stated he would like to move the proposed amendment, page 2, line 5, following "Montana" insert: "except on bonds sold on or before July 1, 1979", and the correction amendments the City of Helena asked, page 3, line 5, following "payable", strike: "annually", insert: "semiannually" and page 3, line 24, following "year,", insert: "and on the first day of ___in each year,". It was then moved by Rep. Donaldson that HB 288 do pass as amended, all voted "aye".

HOUSE BILL 320: It was stated there was to be some further research on amendments, it was moved to pass this bill for the day, all voted "aye".

HOUSE BILL 327: It was moved by Representative Moore that HB 327 do pass. There was short discussion that the Dept. of Revenue had not attended the meeting and evidently felt the amount was minimal and would not affect their budget. Vote was called on the motion that HB 327 do pass and all voted "aye".

HOUSE BILL 274: Representative Kessler offered the proposed amendment on page 1, line 24, following: "sign" to strike: "a consent to annexation" and insert: "an agreement to require a consent to annexation upon utilizing the service". Rep. Robbins inquired if this would solve the problems of the people in the heights in Billings that now have water and sewer, and would they be annexed without saying anything about it. Rep. Kessler stated the amendment would apply to those that are connected. Rep. Robbins stated this would mean they couldn't protest annexation. Representative Gould stated he had gone to the legislative council and asked for a resolution for an interim study of the house and senate on local government conditions on annexation laws, that would be legally acceptable and workable. He felt this bill and others should be killed until that time. Representative Kessler then moved HB 274 do pass as amended. Representative Moore then moved that HB 274 do not pass as a substitute motion, stating we have no right to take away the right of people to protest annexation. There were questions from the committee as to how long the situation had existed with people having city service and not being annexed, it was stated probably 15 to 20 years. Question was called on the substitute motion that HB 274 do not pass. Roll was called and 11 voted yes, 5 voted no, motion carried that HB 274 do not pass.

The meeting was then duly adjourned at 7:00 p.m.

Hershel M. Robbins

HERSHEL M. ROBBINS, Chairman
LOCAL GOVERNMENT COMMITTEE

Patricia A. Hatfield

Patricia A. Hatfield, Sec.

46th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT -- HOUSE BILLS

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 327	2-10	3-6	3-6				3-6		
HB 330	2-13	3-3	3-3					3-3	
HB 341	2-20	3-6	3-6				3-6		
HB 361	2-13	3-6	3-6				3-6		
HB 365	2-10	3-17;3-21	3-21					3-21	
HB 366	2-15	3-17;3-21 3-23	3-23				3-23		
HB 381	2-20	3-15	3-15				3-15		
HB 382	2-17	3-15;3-20 3-21;3-22	3-22					3-22	
HB 387	2-23	taken to Rules Committee on			3-6				
HB 391	2-23	3-3	3-3				3-3		
HB 392	2-28	3-6	3-6				3-6		
HB 399	2-20	3-8;3-13	3-13				3-13		
HB 439	2-20	3-13	3-13				3-13		
HB 442	2-8	3-8;3-17	3-17					3-17	
HB 476	2-28	3-8;3-13	3-13						3-13
HB 488	2-20	3-8;3-13	3-13				3-13		
HB 490	23	3-13	3-13						

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 6, 1979

The meeting of the Local Government Committee was called to order by Chairman George McCallum at 12:40 in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Lockrem and Watt.

Dennis Taylor, staff researcher, was also present.

Many visitors were in attendance. (See attachment.)

CONSIDERATION OF HOUSE BILL 276: Representative Ralph Eudaily, of District 100, chief sponsor of House Bill 276, gave a brief resume. This bill is an act to consolidate the provisions relating to the fixing of municipal salaries; permitting the fixing of salaries by ordinance or resolution; and deleting the provision that a municipal officer may not receive an increase or decrease in pay during a term of office. This bill would make legal what many local governments have been doing illegally for a number of years because of conflicts and confusion within the statutes.

Bill Cregg, Missoula Mayor, spoke on the point of not being able to raise salaries during the term of office. Mr. Cregg stated his support of the bill.

Dan Mizner, of the League of Cities and Towns, stated his group's support of the bill. Mr. Mizner reported that 75 or 80 towns have very strong feelings about this.

Jim Jensen, representing the Montana Magistrates Association, stood in support of the bill.

With no further proponents Senator McCallum called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee. There were no questions or discussion from the Committee.

DISPOSITION OF HOUSE BILL 276: A motion was made by Senator Conover to give House Bill 276 a recommendation of "BE CONCURRED IN" from the Committee. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 327: In the absence of Representative Jay Fabrega, chief sponsor of HB 327, Dean Zinnecker, of the Montana Association of Counties, presented the bill. This bill is an act to amend section 15-8-104, MCA; eliminating the requirement that a county pay for audits conducted by the Department of Revenue, and providing that the costs of an audit

be paid by the department; and providing an immediate effective date. At the present time, counties are responsible for paying the Department of Revenue costs for conducting audits to determine taxable value of selected items. The Constitution states this function to be a responsibility of the State. The counties do not request the audits and the audit financing should be included as part of the overall State responsibility. Counties have no way to budget or control the costs. The fiscal analyst report shows that the fiscal effect would be around $1100.

There were no proponents or opponents to the bill. There were no questions from the Committee.

DISPOSITION OF HOUSE BILL 327: A motion was made by Senator O'Hara to give House Bill 327 a recommendation of "BE CONCURRED IN" from the Committee. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 341: Representative Harold Gerke, of District 62, sponsor of House Bill 341, gave a brief resume on the bill. This bill is an act to delete the requirement that claims against the county be certified. This bill just deletes the requirement of claims having to be certified. This has been requested by the Legislative Audit Committee. Representative Gerke presented a sample claim to the Committee. (See attachment.)

Mr. Jim Northerly, of the Legislative Audit Committee, reported that there are other sections in the codes which cover criminal penalties for falsification of claims.

There were no proponents or opponents to House Bill 341. The meeting was opened to a question and answer period from the Committee. Some discussion was held.

DISPOSITION OF HOUSE BILL 341: A motion was made by Senator Thomas that House Bill 341 be given the recommendation of "BE CONCURRED IN" from the Committee. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 361: Representative Ernie Dassinger, of District 50, chief sponsor of the bill, gave a brief resume. This bill is an act to amend section 7-4-2108, MCA, to increase the expenses allowed a member of a board of county commissioners who resides 50 miles or more from the county seat and performs official duties in the county seat.

This bill attempts to allow the commissioners the same amount as the legislators receive when they are away from home on official business.

Dean Zinnecker, of the Montana Association of Counties, stated his support of the bill and said that he felt this would save the counties money in the long run.

Exhibit No. 6

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN			✓
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON	✓		
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT			✓

Each Day Attach to Minutes.

SENATE

STANDING COMMITTEE REPORT

March 6 19 79

MR. President:

We, your committee on Local Government

having had under consideration House Bill No. 327

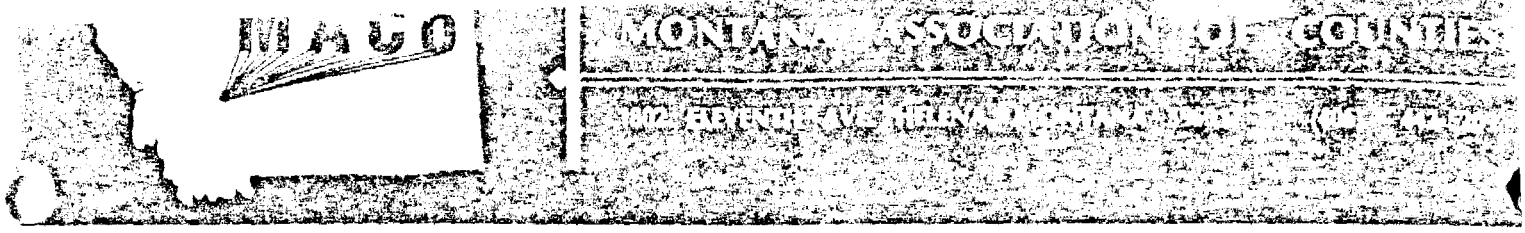
Fabrega (O'Hara)

Respectfully report as follows: That House Bill No. 327

DO PASS: BE CONCURRED IN

George McCallum Chairman.

STATE PUB. CO.
Helena, Mont.



HB 327

DEPARTMENT OF REVENUE AUDITS

At the present time, counties are responsible for paying the Department of Revenue costs for conducting audits to determine taxable value of selected items. The Constitution - Article VIII, Section 3 - states this function to be a responsibility of the State. The counties do not request the audits and the audit financing should be included as part of the overall state responsibility.

Counties have no way to budget cost!

Counties have no control over costs!

Fiscal Analyst report shows $1100 as the fiscal effect.

Counties, cities, schools and the state all benefit from the audit.

HOUSE BILL NO. 327

INTRODUCED BY FABREGA, MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-8-104, MCA; ELIMINATING THE REQUIREMENT THAT A COUNTY PAY FOR AUDITS CONDUCTED BY THE DEPARTMENT OF REVENUE, AND PROVIDING THAT THE COSTS OF AN AUDIT BE PAID BY THE DEPARTMENT; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- ~~costs of--audit--paid--by--county---~~ penalty for underreporting -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells, bank shares, business inventories, and all other types of property subject to ad valorem taxation. ~~The--costs--incurred--by--the department,--including--per-diem-and-mileage-expense-as-well as-salaries-and--benefits,--shall--be--reimbursed--from--the amount--collected-as-a-result-of-the-audit.-In-the-event-the property-subject-to-audit-is-assessed--within--two--or--more counties,--the--department-shall-allocate-the-cost-among-the collections-due-each-of-the-counties.-Reimbursement-shall-be made-solely-for-audit-expense-and--not--for--other--services provided--to--the--counties--by--the--department-and-may-not exceed-the-amounts-collected.~~

(2) The taxable value of any underreported portion of any business inventory found as a result of an audit to have been underreported by the owner shall be increased by 25% as a penalty for underreporting.

(3) The 25% penalty may be waived by the department if reasonable cause for failure to report the total value of a business inventory is provided to the department.

(4) The cost of the audit shall be paid ~~to--the--state treasurer-for-credit-to-the-general-fund~~ by the department."

Section 2. Effective date. This act is effective on passage and approval.

-End-

REFERENCE BILL